

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matters of)	
)	
Implementation of the)	
Telecommunications Act of 1996)	CC Docket No. 96-193
)	
Reform of Filing Requirements)	
and Carrier Classifications)	
)	
Anchorage Telephone Utility,)	
Petition for Withdrawal of Cost)	AAD 95-91
Allocation Manual)	

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REPLY COMMENTS OF TELEPORT COMMUNICATIONS GROUP INC.

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SUMMARY

In its initial comments in this proceeding, TCG requested that the Commission clarify that its proposals for carrier reporting requirements are intended to apply only to incumbent local exchange carriers ("ILECs") and not competitive local exchange carriers ("CLECs"). The Notice of Proposed Rulemaking is unclear on this point, despite the fact that this type of data has never been collected from CLECs. Smaller carriers, such as CLECs, do not have the monopoly power to engage in the kind of cross-subsidiary practices that will be adverse to competition. Therefore, they should not be burdened with the requirement that their practices be monitored by these mandated reports.

However, in the event that the Commission is considering the collection of data from CLECs, it should initiate and complete a separate rulemaking proceeding so that interested parties, particularly CLECs, will have notice and an opportunity to comment on any such proposal.

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To: The Commission		

REPLY COMMENTS OF TELEPORT COMMUNICATIONS GROUP INC.

Teleport Communications Group Inc. ("TCG") hereby submits its reply comments in response to the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding.¹ The initial comments support TCG's request that the Commission should clarify that its proposals for carrier reporting requirements are intended to apply only to incumbent local exchange carriers ("ILECs") and not competitive local exchange carriers ("CLECs"). However, in the event that the Commission is considering the collection of data from CLECs, it should initiate and complete a separate rulemaking proceeding before doing so.

Most of the participants in this proceeding are incumbent local exchange carriers ("ILECs") who are advocating specific changes in the reporting

1. Order and Notice of Proposed Rulemaking, CC Docket No. 96-193, FCC 96-370 (rel. September 12, 1996) ("NPRM").

requirements or seeking clarification on the Commission's proposals.² However, the Anchorage Telephone Utility ("ATU") agrees with TCG that the NPRM does not make clear to whom the Commission intends to apply the revised reporting requirements. Moreover, some commenters propose specifically restricting the application of the reporting requirements according to a carrier's subscriber line count.

According to ATU, "the Commission has consistently concluded that [the ARMIS and CAM requirements] should apply only to Tier 1 local exchange carriers."³ ATU notes that based on the NPRM, "it would appear that the Commission has assumed that [its] proposals . . . are applicable to 'incumbent local exchange carriers.'"⁴ However, the text of the proposed rule is much broader, referring to "local exchange carriers."⁵

This inconsistency must be clarified by excluding CLECs from the reporting requirements. Smaller carriers simply cannot engage in the kind of cross-subsidization practices that will be adverse to competition in the local exchange

2. See, e.g., Bell Atlantic at 2 (advocating that the Commission eliminate the 60 day filing requirement for the cost allocation manual ("CAM") amendments and permit carriers to implement changes throughout the year); U S WEST at 3-4 (proposing elimination of the 60-day filing requirement for CAM revisions and continuation of existing staggered filing dates for certain ARMIS reports); see also Sprint at 2 (supporting tentative conclusion that the 60 day notice provision be retained).

3. ATU at 1.

4. Id. at 3 (citing NPRM at ¶¶ 31-32).

5. Id. at 4; see also TCG at 2-3.

market, and thus do not require that their practices be monitored by the subject reporting requirements.⁶ In fact, ATU and USTA suggest imposing the CAM and ARMIS reporting requirements only on those carriers with more than 2 percent of the nation's subscriber lines.⁷

If, however, the Commission proposes to apply the reporting requirements to all local exchange carriers, then such a proposal must be subject to a separate rulemaking proceeding. The fact that the commenters in this proceeding are primarily ILECs suggests that these parties correctly understand that the reporting requirements proposed in the NPRM are intended to apply only to ILECs. Thus, the Commission's explanation of the proposed ARMIS rules "focuses solely on 'incumbent' local exchange carriers and is absolutely silent on any need for ARMIS information from other local exchange carriers, let alone the burden and costs for those other local exchange carriers to prepare and file those reports."⁸ Therefore, the Commission should not arbitrarily apply the reporting requirements to CLECs as a matter of course in this proceeding since the Commission has not yet explored

6. See TCG at 5 ("Clearly, CLECs have no monopoly revenues and are incapable of engaging in discriminatory or unreasonable pricing practices."); ATU at 9 ("It blinks reality to suggest that data from smaller companies could meaningfully add to the Commission's ability to carry out the functions [for reporting requirements] it has identified, and the Notice does not contend that they would.") (footnote omitted); see also USTA at 3 ("Given the small size and lack of resources, small and mid-sized LECs are particularly vulnerable to competitive entry and to unnecessary regulatory burdens.").

7. ATU at 13-16; USTA at 2-5.

8. ATU at 5 (footnote omitted).

the necessity of requiring CLECs to provide the kind of information that is presently required of ILECs.

III. CONCLUSION

For these reasons, TCG respectfully requests that the Commission clarify that reporting requirements addressed in the NPRM apply only to ILECs. Before any reporting requirements are imposed upon CLECs, the Commission should initiate and complete a separate rulemaking proceeding.

Respectfully submitted,



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Dated: November 5, 1996

CERTIFICATE OF SERVICE

I, Marjorie A. Schroeder, do hereby certify that a copy of the foregoing Reply
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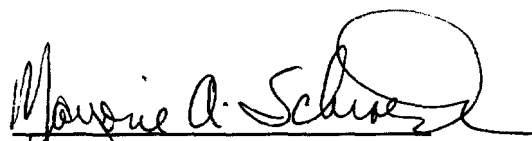
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